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WORLD CONFERENCE AGAINST RACISM,
RACIAL DISCRIMINATION, XENOPHOBIA
AND RELATED INTOLERANCE

Preparatory Committee
Inter-sessional open-ended working group
Geneva, 6 - 9 March 2001

Item 4 of the provisional agenda

DRAFT DECLARATION AND PROGRAMME OF ACTION OF THE WORLD CONFERENCE

Contribution*/ submitted by Women's International League for Peace and Freedom

The Secretary-General has received the following contribution which is circulated in accordance with Economic and Social Council resolution 1996/31.

*/This contribution is issued, unedited, as received from the submitting non-governmental organization(s)

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REQUEST THAT COMPENSATORY REMEDIES BE PART OF THE THEME FOR THE WORLD CONFERENCE AGAINST RACISM

Submitted September 2000

Summary of Request

1. The Women's International League for Peace and Freedom requests that the square brackets around the word "compensatory" be removed in the text of theme 4 of the agenda to allow for a full discussion of all forms of remedies, including compensatory remedies, at the 2001 World Conference in South Africa.

2. On 5 May 2000, the First Preparatory Committee for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance adopted the themes for the Conference. There was extensive debate on theme 4 resulting in brackets being placed around the word "compensatory" in that theme.

3. Historically, remedies for racism, racial discrimination, xenophobia and related intolerance have included compensation for the harm inflicted on those against whom these acts were directed. The Convention to Eliminate All Forms of Racial Discrimination (CERD) includes a need to find adequate remedies for institutional racism. To eliminate the concept of compensatory remedies from this theme belies this history and severely restricts a full and meaningful discussion of effective remedies.

Background in Support of Request

4. Reparations is the concept frequently associated with providing a remedy for egregious violations of human rights and fundamental freedoms. See Theo Van Boven (E/CN.4/sub.2/1993/8). The primary form reparations has taken for victims of egregious violations that were based on the race or ethnicity of the victimized group has been compensatory.

5. The United Nations has accepted compensatory remedies, whether called reparations, restitution or redress, as a legitimate and important remedy in a number of cases including those affecting the survivors of the Jewish Holocaust, Japanese Americans forced into concentration camps during World War II, the Japanese "Comfort Women," the political prisoners in Argentina and others.

6. A number of ethnically and racially identifiable groups throughout the world have not had full and adequate redress for egregious violations of human rights and fundamental freedoms by governments and corporations responsible for these violations. Governments and corporations have invaded their lands, stolen their property, forced them into slavery, demonized and maltreated them as a group and because of their group racial or ethnic identity, barred them from full, open and equal participation in the society, and been unjustly enriched by these actions.

7. The human atrocity of the Trans-Atlantic Slave Trade and the centuries of enslavement of African people followed by government supported discrimination, institutionalized racism and corporate unjust enrichment is but one major example. Oppression of people of African descent in Europe and the Americas today that flows directly from the history of their ancestors enslavement has resulted in "gross violations of human rights and fundamental freedoms" today. As this, and other instances of racism are discussed, it is critical that the delegates be able to fully examine and recommend appropriate and adequate remedies for these egregious human rights violations.

Brief Summary of the Limitations of Non-Compensatory Remedies

8. Despite the United Nations Conventions, numerous laws, institutions and, in some countries, affirmative action programs, that were designed purportedly to end racism, it is still prevalent. See e.g., Report of Maurice Glèlè-Ahanhanzo, Special Rapporteur on Racism, E/CN.4/1995/78/Paragraph 32 concerning the United States.

9. Racially and ethnically identifiable groups in many countries throughout the world continue to be displaced, marginalized, unfairly imprisoned, brutalized and murdered. Representatives of a number of these groups were represented at the First Preparatory Meeting of the World Conference Against Racism including the Dalits in India, the Gypsy's in Europe, and Latino/as, Native Americans and African Americans in the United States and Canada.

Conclusion

10. The importance of compensatory remedies to fully and adequately redress the violations of human rights that flow from racism, racial discrimination, xenophobia and other forms of intolerance have been discussed by a number of authors. The following is a bibliography of some of this work.

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